IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 513 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VISNAGAR MAHILA MUDRANALAYA & UTPADAK SAHKARI MANDALI LTD - Petitioner(s)

Versus

DISTRICT ELECTION OFFICER - Respondent(s)

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Appearance :

MR PRAKASH K JANI for Petitioner(s) : 1,
MR JASWANT K SHAH, ASSTT GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 25/07/2007

ORAL JUDGMENT

1. Petitioner- Shri Visnagar Mahila Mudranalaya and Utpadak Sahkari Mandali Limited is before this Court through its President Shakuntalaben Natwarlal Patel being aggrieved by the order passed by the District Election Officer- Collector, Mehsana, District Mehsana.

2. The facts giving rise to the present petition are that the petitioner society submitted its offer in response to an invitation for submitting tenders for printing work in connection with the election of the District/ Taluka/ Gram Panchayats. The tenders were opened. The persons who had submitted their tenders were invited to remain present in the office of the respondent for negotiations.

2.1. The petitioner informed the respondent that on account of some misunderstanding on the part of the petitioner Society, at the rates quoted in the tender and it will not be possible for the petitioner Society to carry out the work. That being so, the respondent- Election Officer- Collector, Mehsana passed an order under challenge dated 10.10.2000, ordering that Rs.500/- (Rupees Five hundred only) paid as earnest money with the tender be forfeited and the petitioner Society be blacklisted for ten years.

3. After the order was passed, the petitioner had addressed a letter to the District Collector, Mehsana on 1.11.2000, requesting that order dated 10.10.2000 be reconsidered. The Collector reconsidered the order and retaining the order of confiscation of Rs.500/-- earnest money, reduced the period of blacklisting from ten years to two years by order dated 29.12.2000.

4. Present Special Civil Application was filed on 18.01.2001. Notice was issued on 22.01.2001 returnable on 31.01.2001. The Court was pleased to order that order dated 10.10.2000 as modified by order dated 29.12.2000, blacklisting the petitioner is suspended till then. The matter was admitted on 18.06.2001 and the interim relief was confirmed. The Court also ordered that the Special Civil Application be heard with Special Civil Application No. 210 of 2001.

5. The learned advocate for the petitioner submitted that order dated 10.10.2000 was passed without affording opportunity of hearing to the petitioner. He submitted that looking to the facts of the case and looking to the nature of activities undertaken by the petitioner Society, the order is too harsh. He submitted that even after the reduction of the period of ten years to two years, the punishment remains to be harsh. More so when the petitioner had shown its willingness to carry out the work at the rates prescribed by the State Election Commission but that offer of the petitioner was not accepted.

The learned advocate for the petitioner submitted that the petitioner had represented to the authorities that there was some genuine misunderstanding on the part of the petitioner while quoting the rates in the tender. This particular fact

was brought to the notice of the authorities by saying that if the work is to be carried out at the quoted rates, the petitioner Society will suffer loss and that will hamper the activities of the petitioner Society.

6. Besides, the learned advocate for the petitioner has placed on record the work carried out by the petitioner Society from 30.01.2001 to December, 2005. Perusal of the list of the work undertaken by the petitioner Society reveals that the major part of the work is Government work and the same is undertaken by the petitioner Society without any trouble. The learned advocate submitted that looking to the satisfactory performance of the petitioner Society and taking into consideration that, except for the incident in question, there was no complaint whatsoever against the working of the petitioner Society, the Collector-respondent herein ought to have taken more pragmatic view than he has taken in passing order dated 29.12.2000, whereby not only the order of confiscation is retained but for a period of two years, the petitioner Society is blacklisted.

7. The learned advocate for the petitioner relied upon a decision of the Hon'ble the Apex Court in the matter of **M/s. Erusian Equipment and Chemicals Ltd. Vs. State of W.B.** reported in **AIR 1975 SC 266**, which was referred to by the learned Judge at the time of passing the order of admission of this matter. He submitted that the Hon'ble the Apex Court has held

that, 'the authority cannot blacklist the contractor without affording an opportunity of hearing'.

8. Mr. Jaswant K. Shah, learned Assistant Government Pleader, submitted that the matter is already reconsidered by the Collector and substantial relief is already granted by the Collector and hence no further interference is warranted at the hands of this Court.

9. Taking into consideration the rival submissions of the parties and taking into consideration the fact that the petitioner is a Co-operative Society of women and is working satisfactorily right from its inception and having as many as 990 members, as set out in para 1 of the petition, the order under challenge is not warranted. The learned Assistant Government Pleader is not able to point out any other incident than the incidents in which the impugned order in this petition and in other cognate matter are passed. The petition is allowed. Order dated 29.12.2000 is hereby quashed and set aside. Rule is made absolute with no order as to costs.

(RAVI R. TRIPATHI, J.)

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